

# MAINE STATE LEGISLATURE

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VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE

SENATE

130TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 94, L.D. 205, "An Act To Extend the Ability of Restaurants and Bars To Serve Alcohol To Go"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. 28-A MRSA §1056 is enacted to read:

§1056. Authorized take-out and delivery sales of liquor; repeal

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Approved cocktail" means a beverage prepared by combining spirits or wine with spirits, wine or a nonalcoholic liquid or liquids and that:

(1) Is prepared on the day of sale by a qualified on-premises retailer's or qualified distillery's employee who is at least 21 years of age or by an employee who is between 17 and 20 years of age and who is in the presence of another employee who is at least 21 years of age and is serving in a supervisory capacity;

(2) Contains no more than 4 1/2 ounces of spirits; and

(3) Is sealed in an approved container.

B. "Approved container" means a tamper-evident container that:

(1) Is rigid, is not made of paper or polystyrene foam, has not previously been used to contain beverages and has a secured lid or cap that does not contain any holes or opening including any hole or opening through which a straw may be inserted or the contents of the container may be sipped;

(2) Is sealed in a manner that makes opening the container or tampering with the contents of the container easily detectable; and

(3) Has an affixed label that identifies the name and license number of the qualified on-premises retailer or qualified distillery that prepared and sold the approved

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- 1           cocktail, the date on which the approved cocktail was prepared and sealed in the
- 2           approved container and the ingredients of the approved cocktail.
- 3           C. "Food order" means an order of a full course meal as defined in section 2, subsection
- 4           15, paragraph R-1 or an order of a cold or hot meal including but not limited to a
- 5           sandwich, salad, hamburger, cheeseburger, hot dog, pizza or other food item that
- 6           customarily appears on a restaurant menu. "Food order" does not include an order
- 7           consisting solely of a prepackaged snack food or foods such as popcorn, chips or
- 8           pretzels.
- 9           D. "Original container" means, with respect to a wine or malt liquor product, the
- 10           container in which the wine or malt liquor product was sealed when the qualified on-
- 11           premises retailer obtained the wine or malt liquor product from an in-state
- 12           manufacturer or a wholesale licensee.
- 13           E. "Qualified distillery" means a distillery or a small distillery licensed under section
- 14           1355-A that:
  - 15               (1) Serves samples of its products to the public for on-premises consumption under
  - 16               section 1355-A, subsection 2, paragraph A, B, E or F or sells its products to the
  - 17               public for off-premises consumption under section 1355-A, subsection 2,
  - 18               paragraph C, D or G; and
  - 19               (2) Has notified the bureau in accordance with subsection 2 of its intention to sell
  - 20               approved cocktails for off-premises consumption.
- 21           F. "Qualified on-premises retailer" means an establishment that possesses a license to
- 22           sell spirits, wine or malt liquor for on-premises consumption under this chapter and has
- 23           notified the bureau in accordance with subsection 2 of its intention to sell approved
- 24           cocktails, wine or malt liquor for off-premises consumption.
- 25           **2. Authorized take-out and delivery sales of liquor for off-premises consumption.**
- 26           Notwithstanding any provision of law to the contrary, a qualified on-premises retailer or a
- 27           qualified distillery may sell liquor for off-premises consumption only under the following
- 28           conditions.
  - 29               A. Prior to engaging in sales of liquor for off-premises consumption, a qualified on-
  - 30               premises retailer or qualified distillery shall notify the bureau of its intention to sell
  - 31               approved cocktails, wine or malt liquor for off-premises consumption on a form
  - 32               prepared and approved by the bureau.
  - 33               B. Liquor sold by a qualified on-premises retailer for off-premises consumption must
  - 34               be accompanied by a food order.
  - 35               C. A qualified on-premises retailer may sell for off-premises consumption only the
  - 36               type or types of liquor that it is authorized to sell for on-premises consumption pursuant
  - 37               to its license issued under this chapter.
    - 38                   (1) If the qualified on-premises retailer is licensed under this chapter to sell wine
    - 39                   for on-premises consumption, it may sell wine for off-premises consumption only
    - 40                   in an original container or as an ingredient in an approved cocktail. An approved
    - 41                   cocktail sold by a qualified on-premises retailer under this subparagraph may not
    - 42                   contain spirits unless the qualified on-premises retailer is also licensed to sell
    - 43                   spirits for on-premises consumption under this chapter.

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1 (2) If the qualified on-premises retailer is licensed under this chapter to sell malt  
2 liquor for on-premises consumption, it may sell malt liquor for off-premises  
3 consumption only in an original container.

4 (3) If the qualified on-premises retailer is licensed under this chapter to sell spirits  
5 for on-premises consumption, it may sell spirits for off-premises consumption only  
6 as an ingredient of an approved cocktail. An approved cocktail sold by a qualified  
7 on-premises retailer under this subparagraph may not contain wine unless the  
8 qualified on-premises retailer is also licensed to sell wine for on-premises  
9 consumption.

10 D. Except as provided in section 1355-A, a qualified distillery may sell spirits for off-  
11 premises consumption only as an ingredient of an approved cocktail. An approved  
12 cocktail sold by a qualified distillery under this paragraph may not contain wine or  
13 spirits not manufactured by the qualified distillery unless the qualified distillery  
14 purchased the wine or spirits from an agency liquor store licensed as a reselling agent.

15 E. Liquor sold for off-premises consumption must be accompanied by a sales receipt  
16 with a time stamp that indicates the time of purchase.

17 F. Liquor sold for off-premises consumption may be delivered by the qualified on-  
18 premises retailer or the qualified distillery or by an employee of the qualified on-  
19 premises retailer or the qualified distillery to a customer at the licensed premises or at  
20 a remote location only in accordance with this paragraph.

21 (1) Liquor may not be delivered to a customer at a remote location unless the  
22 individual making the delivery is at least 21 years of age.

23 (2) Liquor may not be delivered to a visibly intoxicated person.

24 (3) Liquor may not be delivered unless the individual making the delivery verifies,  
25 by means of reliable photographic identification containing the person's name and  
26 date of birth, that the person to whom the delivery is made is not a minor.

27 **3. Repeal.** This section is repealed September 10, 2022.'

28 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
29 number to read consecutively.

30 **SUMMARY**

31 This amendment makes the following changes to the bill.

32 1. It removes the provisions of the bill requiring the Department of Administrative and  
33 Financial Services, Bureau of Alcoholic Beverages and Lottery Operations to engage in  
34 rulemaking.

35 2. It clarifies that any licensed on-premises retailer may, if they choose to exercise the  
36 temporary authority granted in the bill, sell for off-premises consumption the type or types  
37 of liquor that the retailer is licensed to sell for on-premises consumption as long as the  
38 liquor is accompanied by a food order that consists of a hot or cold meal and not merely  
39 prepackaged snack food.

40 3. It clarifies that licensed Maine distilleries and small distilleries may, if they choose  
41 to exercise the temporary authority granted in the bill, sell for off-premises consumption

**COMMITTEE AMENDMENT**

1 spirits products that they manufacture as an ingredient of an approved cocktail. An  
2 approved cocktail sold by a distillery or small distillery may also contain wine and spirits  
3 products not manufactured by the distillery or small distillery as long as those ingredients  
4 are purchased from an agency liquor store licensed as a reselling agent.

5 4. It clarifies that licensed on-premises retailers that sell wine for on-premises  
6 consumption may, under the temporary authority granted in the bill, sell wine for off-  
7 premises consumption only in an original container or as an ingredient in an approved  
8 cocktail. An approved cocktail sold by a retailer licensed to sell wine for on-premises  
9 consumption may also contain spirits as long as the retailer is also licensed to sell spirits  
10 for on-premises consumption.

11 5. It clarifies that the container in which an approved cocktail is sold must be rigid,  
12 must not be made of paper or polystyrene foam, must have a secured lid or cap that does  
13 not contain any holes or openings, must be sealed in a manner that makes opening or  
14 tampering with the contents of the container easily detectable and must be affixed with a  
15 label. The label must identify the licensee whose employees filled and sold the approved  
16 container, the contents of the container and the date on which the container was filled and  
17 sealed.

18 6. It requires, when the employee of a licensee who prepares an approved cocktail is  
19 between 17 and 20 years of age, that the employee be supervised by another employee of  
20 the licensee who is at least 21 years of age.

21 7. It clarifies that liquor sold for off-premises consumption under the temporary  
22 authority granted in the bill may not be delivered to a customer at a remote location unless  
23 the individual making the delivery verifies, by means of reliable photographic  
24 identification, that the recipient of the liquor is not a minor.

25 8. It changes the bill's repeal date from April 15, 2022 to September 10, 2022.

26 **FISCAL NOTE REQUIRED**  
27 **(See attached)**

**COMMITTEE AMENDMENT**



# 130th MAINE LEGISLATURE

LD 205

LR 451(02)

**An Act To Extend the Ability of Restaurants and Bars To Serve Alcohol To Go**

**Fiscal Note for Bill as Amended by Committee Amendment 'A' (S-11)**

**Committee: Veterans and Legal Affairs**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Any additional costs to the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services as a result of provisions that allow on-premises retailers to engage in liquor take-out sales and delivery services of liquor until September 10, 2022 are anticipated to be minor and can be absorbed within existing budgeted resources.